

**CHAPTER 11.03**

**DEFINITIONS**

**SECTIONS:**

11.03.010	Definitions
11.03.020	Severability
11.03.030	Effective Date

**11.03.010 DEFINITIONS.** Whenever the following words and phrases appear in this title they shall be given the meaning attributed to them by this section. When not inconsistent with the context, words used in the present tense shall include the future; the singular shall include the plural, and the plural the singular; the word "shall" is always mandatory, and the words "should" and "may" indicate a use of discretion in making a decision. Words used in this title which are not defined in this section shall (when necessary) be defined as to the meaning used in a college level dictionary; or (where required or necessary) as defined in state law under the appropriate RCW, WAC regulations, or County ordinances. The terms "agricultural," "agriculture," "agriculturally," "horticulture," "agronomy," "viticulture," "aquaculture," "floriculture," "food processing," and "farming," shall not be construed to include or relate to marijuana, useable marijuana, or marijuana-infused products.

(1) "Accessory/Ancillary Use or Building" means a subordinate use or building clearly incidental to and located upon the same lot occupied by the main use or building.

(2) "Accessory Dwelling Unit" an additional room or set of rooms located within a single family structure and designed, arranged, occupied or intended to be occupied by not more than one (1) household as living accommodations independent from any other household and not exceeding 800 square feet in area.

(3) "Accessory Equipment Structure" means an un-staffed structure used to contain the equipment necessary for processing communication signals. The accessory equipment structure does not include guyed, lattice, or monopole towers.

(4) "Adult" means a person eighteen years of age and older.

(5) "Adult Family Home" means a regular family abode of a person or persons who are providing personal care, room and board to more than one but not more than six (6) adults who are not related by blood or marriage to the person or persons providing the services.

(6) "Agricultural Building" means a structure designed and constructed to store farm implements or hay, grain, poultry, livestock, fruit and other agricultural products. The structure shall not be used for human habitation, process, treating, or packaging agriculture products, nor shall it be a place to be used by the public.

(7) "Agricultural Market" means a use primarily engaged in the retail sale of fresh agricultural products, grown either on or off the site, but may include as incidental and accessory to the principle use, the sale of factory sealed or prepackaged food products and some limited non-food items. This definition does not include the sale of livestock.

(8) "Agricultural Recreational Facility" means a facility where a fee is charged in return for access to agriculturally-related recreational opportunities, including but not limited to: enclosed arenas, rodeo, grounds and/or building for livestock exhibits, shows and competitions.

(9) "Agricultural Related Industry" means specifically:

(a) Packaging Plants - the following activities: washing, sorting, crating, and other functional operations related to packaging agricultural products such as drying, field crushing, or other preparation in which the chemical and physical composition of the agriculture product remains essentially

unaltered. Does not include processing activities, or slaughter houses, animal reduction yards, and tallow works.

(b) Processing Plants - those activities which involve the fermentation or other substantial chemical and physical alteration of an agricultural product or agricultural waste. Does not include slaughter houses, rendering plants or any other activity specifically regulated differently than an Agricultural Related Industry in this Title 11.

(c) Storage Facilities - those activities which involve the warehousing of processed and/or packaged agricultural products.

(10) "Agricultural Stand" means a structure up to 1000 square feet in area used for the retail sale of agriculture products, excluding livestock, grown on the premises.

(11) "Agricultural Use" means raising crops and livestock, horticultural activities, viticulture, animal husbandry, beekeeping, the storage of equipment for the above and related activities normally and routinely a part of such uses.

(12) "Agricultural Wastes" means wastes on farms resulting from the production of agricultural products including but not limited to crop residues, manures, and carcasses of dead animals weighing each or collectively in excess of fifteen pounds.

(13) "Agriculture Lands" refer to lands that are not already characterized by urban growth and are of long term significance for the commercial production of horticulture, agronomy, silviculture, aquaculture, apiary, animal products, turf, seed, Christmas trees not subject to excise tax, or livestock.

(14) "Agri-tourism Accommodation" means an agricultural business or organization offering overnight lodging in an agricultural setting. The purpose is to provide temporary tourist accommodations that are accessory to an onsite or adjacent agricultural use. Overnight lodging facilities are not to exceed

a maximum of 5 guest units. An agri-tourism accommodation does not include bed and breakfast establishments, motels, hotels, and other similar uses.

(15) "Agronomic Rates" or fertilizer guide means the rates of application of sludge, manure, or crop residues in accordance with rates specified by the appropriate fertilizer guide or by recommendation from a qualified soil scientist, for the crop under cultivation.

(16) "Airport/Heliport" means a runway or landing area or other facility designed or used by public carriers for the landing and taking off of aircraft, including the following associated facilities: taxiways, aircraft storage and tie-down areas, hangars, servicing, and passenger and air freight terminals.

(17) "Airstrip (personal)" means a runway without normal airport functions maintained for the private use of the owner of the property on which it is located.

(18) "Airstrip commercial crop-dusting" means a private runway with service and maintenance facilities which serves the commercial crop-duster.

(19) "Allowable Use" or "Permitted Use" means a use which is allowed outright, i.e., the land use itself does not require obtaining Planning Administrator review and approval, or a conditional use permit.

(20) "Amateur (or Ham) Radio Facilities" means a radio transmission or receiving antenna or communication device operated for non-commercial purposes by individuals licensed by the Federal Communications Commission (FCC).

(21) "Animal Feedlot" refers to a lot or building or combination of lots and buildings intended for the confined feeding, breeding, raising, or holding of animals and specifically designed as a confinement area in which manure may accumulate, or where the concentration of animals is such that a vegetative cover cannot be maintained within the enclosure. For purposes of Benton

County, open lots used for feeding and rearing of poultry (poultry ranges) shall be considered to be animal feedlots. Pastures shall not be considered animal feedlots under these definitions. Seasonal use during the months of November through February is exempt from feedlot status.

(22) "Animal Unit" is the volume of waste produced over a period of time by a horse, slaughter steer, or heifer.

(23) "Animal Unit Equivalent" equals the number of other farm animals, (chickens, sheep, turkeys, etc.,) needed to produce the equivalent in waste of an animal unit; i.e., it takes fifty (50) chickens to produce the same volume of waste as a horse.

**NOTE:** This section is continued on the following page.

For purposes of Benton County, the following equivalents apply:

<b>TABLE 11.03.010-1 ANIMAL UNIT EQUIVALENT CONVERSION TABLE</b>	
<b>Type of Livestock</b>	<b>Animal Unit Equivalent (per half acre)</b>
<b>Cattle:</b>	
1 slaughter steer, or bull, or dairy cow, or heifer	1.0
2 weaned calves to yearlings	1.0
<b>Horses:</b>	
1 horse	1.0
<b>Sheep:</b>	
2 ewes, with or without unweaned lambs at side	1.0
1 ram	1.0
4 weaned lambs	1.0
<b>Swine:</b>	
2 brood sows	1.0
5 feeder pigs (up to 200 lbs.)	1.0
1 boar	1.0
<b>Other:</b>	
2 goats	1.0
2 llamas	1.0
3 alpacas	1.0
1 ostrich	1.0
3 emus	1.0
5 rhea	1.0
40 ducks or geese	1.0
20 turkeys	1.0
50 chickens	1.0
50 rabbits	1.0
Other animals, not listed above	As may be determined by the Planning Administrative Official

(24) "Antenna Array" means one or more rods, panels, discs or similar devices used for the transmission or reception of communication signals, which may include omni-directional antenna (rod), directional antenna (panel) and parabolic antenna (disc). The antenna array does not include the communication tower.

(25) "Apartment House" means a building containing three or more family-dwelling units each of which, though independent of the other, is provided with joint service such as central heat, common hallways, common entrance or entrances to the building, janitor service, refuse disposal and similar services.

(26) "Aquifer" A body of rock or soil that contains sufficient saturated permeable material to conduct groundwater and to yield economically significant quantities of groundwater to wells and springs.

(27) "Attached Communication Facility" means an antenna array that is attached to a building or structure. The building or structure may be but is not limited to a utility pole or a water tower.

(28) "Bakeries" means the conversion of raw materials through a baking process to finished consumable products and may include the marketing and sale or serving of such products and related accessory items on-site and/or off-site.

(29) "Bed and Breakfast" means an owner occupied single family dwelling in which not more than five bedrooms are rented for money or other valuable consideration to the traveling public and only one meal, breakfast, may be served to guests.

(30) "Best Management Practices (BMP's)" means physical, structural, and/or managerial practices that when used singularly or in combination, protect the functions and values of critical resources. Acceptable BMP's are found in the County's Administrative design Manual. BMP's are current and evolving conservation practices, or systems of practices, management or

operational measures, or design and construction techniques; or normal and accepted industry standards that are applied to land uses and land use activity in a manner which:

(a) controls soil loss and reduces water surface and groundwater quality degradation caused by nutrients, animal wastes, toxins, and sediment; and

(b) mitigates adverse impacts to the natural chemical, physical and biological environment of the County.

(c) utilizes the county's natural resources on a long term, sustainable yield basis.

(31) "Biosolids" means municipal sewage sludge that is a primarily organic, semisolid product resulting from the wastewater treatment process that can be beneficially recycled and meets all requirements of Chapter 70.95J RCW, as it now exists or is hereafter amended.

(32) "Buffer" means a designated area used to separate incompatible uses or protect resources or development. Buffers are generally undeveloped areas. There are different types of buffers for different purposes:

(a) buffers which protect sensitive natural resources (critical areas) from the adverse impacts of development are generally undeveloped open space which are ecologically part of the protected resource;

(b) buffers which protect the integrity of development from certain natural hazards such as slope instability, floods or fire prone areas, are setbacks which avoid the hazard;

(c) buffers to separate incompatible uses, such as residential from industrial, airports or certain activities common to commercial agriculture, are generally open or sparsely populated.

(33) "Business activity" means the production or sale of goods, or the sale of services that is clearly incidental and secondary to the use of the property for residential purposes and that complies with the criteria set forth in this title.

(34) "Child" means a person seventeen years of age and under.

(35) "Child Day Care Facility - Type A" means a dwelling unit where a childcare provider cares for twelve (12) or fewer children for periods of less than 24 hours a day.

(36) "Child Day Care Facility - Type B" means a dwelling unit where a childcare provider cares for thirteen (13) or more children for periods of less than 24 hours a day, or a building or structure other than a dwelling unit where a childcare provider cares for any number of children for periods of less than 24 hours a day.

(37) "Childcare provider" means an agency, person, or persons who regularly provide childcare for one or more children for compensation for periods of less than 24 hours a day while such children are apart from their parents or guardians.

(38) "Church" means a structure, or group of structures, which by design and construction are primarily used for religious services and instruction.

(39) "Citizen Band Radio" means two-way radio facilities used for short-range personal and business communications and operated without the need of a federal license.

(40) "Closed record appeal" means an appeal to the Board of County Commissioners, on a decision made during an open record hearing where no new evidence or information is being submitted, of a decision made following an open record hearing on a project permit application.

(41) "Commercial Dairy" means any premises where three or more animal units are kept, milked, or maintained for licensed commercial sale of product.

(42) "Commercial Hog Ranch" means the keeping of six (6) or more feeder pigs exceeding six (6) weeks of age, or more than two (2) brood sows.

(43) "Commercial Horticulture" means the cultivation of fruits, vegetables, flowers, or plants on twenty (20) acres or more under common ownership.

(44) "Commercial Poultry/ Rabbit Operation" means premises where more than one hundred (100) birds or fifty (50) rabbits are kept.

(45) "Commercial Recreational Facility" means a parcel of land or structures used to generate revenue in return for access to recreational facilities such as: battling cages, billiard parlors; bowling alleys, fishing and fly casting ponds, golf driving ranges, golf pitch and putt courses, lawn and court games, miniature golf courses, skating rinks, tennis courts, swim parks, sports fields, gymnasiums, and other similar recreational uses.

(46) "Commercial Significance, Long Term" means the growing capacity, productivity and soil composition of the land for long term commercial production in consideration with the land's proximity to population areas, and the possibility of more intense uses of the land.

(47) "Common Facilities" means any facility within the area of a planned development which is designed and constructed for the use of all residents of the development.

(48) "Common Open Space" means any area of land or water or combination thereof within the area of planned development which is designed and intended for the use of all residents of the planned development.

(49) "Communication Facility" means any facility used for the transmission and/or reception of communication services. Such facility usually, but not necessarily, consists of an antenna array, connection cables, and a communication tower to achieve the necessary elevation.

(50) "Communication Facility Height" means the distance measured from ground level to the highest point on the communication facility, including the antenna array.

(51) "Communication Services" means any communication services as defined in the Telecommunication Act of 1996, which includes: cellular services, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), radio and television towers, paging services and similar services that currently exist or that may in the future be developed.

(52) "Communication Tower" means a freestanding structure designed and constructed specifically to support an antenna array. The structure may include a monopole tower, self-supporting (lattice) tower, guyed tower and other similar structures.

(53) "Compatibility" means the congruent arrangement of land uses and/or project elements to avoid, mitigate, or minimize (to the greatest extent reasonable) conflicts.

(54) "Comprehensive Plan" means the Benton County Comprehensive Plan and any amendments, addenda, or supplemental plans that are duly adopted under Chapter 36.70 RCW and Chapter 36.70A RCW, as they now exist or is hereafter amended, for Benton County or any portion thereof.

(55) "Concentrated Animal Feeding Operation" means a structure or pens for the concentrated feeding or holding of animals or poultry, including but not limited to horses, cattle, sheep or swine. This definition includes dairy confinement areas, slaughterhouses, shipping terminal holding pens, poultry and/or egg production facilities and fur farms but does not include animal husbandry.

(56) "Condition(s) of Approval" means restrictions or requirements imposed by a reviewing official pursuant to authority granted by this title.

(57) "Conditional Use Permit" means a permit which is granted for a conditional use. The term "conditional use" means a use subject to specified conditions which may be permitted in one (1) or more classifications as defined by this title but which use, because of characteristics peculiar to it, or because of size, technological processes or type of equipment, or because of the exact location with reference to surroundings, streets and existing improvements or demands upon public facilities, or impacts to ground or surface water requires a special degree of control to make such uses consistent with and compatible to other existing or permissible uses in the same zone or zones, and to assure that such use shall not be adverse to the public interest.

(58) "County" means Benton County.

(59) "Crisis Residential Center" means a facility operated as a temporary shelter within a single family dwelling and providing twenty-four (24) hour a day care for up to six (6) children that is established and licensed by the State of Washington in accordance with RCW 74.13.032 as now in effect or hereafter amended.

(60) "Designated Manufactured Home" means a new manufactured home constructed in accordance with state and federal requirements for manufactured homes, and which:

(a) is comprised of at least two (2) fully enclosed parallel sections each of which is not less than twelve (12) feet wide by thirty-six (36) feet long;

(b) is constructed with a composition or wood shake or shingle, coated metal, or similar roof of nominal 3:12 pitch;

(c) has exterior siding similar in appearance to siding materials commonly used on conventional site-built single-family residences under the International Residential Code;

(d) is set upon a permanent foundation, as specified by the manufacturer, and the space from the bottom of the home to the ground is enclosed by concrete or an approved concrete

product which can be either load bearing or decorative; and,

(e) the manufactured home is thermally equivalent to the state energy code.

(61) "Designated Provider" has the definition of that term as set forth under chapter 69.51A, RCW.

(62) "Development" means "use" as defined by this title.

(63) "Duplex" A single structure containing two (2) dwelling units, neither of which is defined as an accessory dwelling unit.

(64) "Dwelling Unit" A room or rooms located within a structure, designed, arranged, occupied or intended to be occupied by a household. The existence of food preparation and bathroom areas within the room or rooms shall be evidence of the existence of a dwelling unit.

(65) "Dwelling, Single-Family" or "Single Family Dwelling" or "One Family Dwelling" means one of the following types of buildings or structures designed to contain a single dwelling unit:

(a) a site built home - see "Site Built Home";

(b) a modular home - means a residential structure which meets the requirements of the Uniform Building Code or International Residential Code and is constructed in a factory and transported to the building site;

(c) a designated manufactured home - see "Designated Manufactured Home".

(66) "Dwelling, Single-Family Detached" means one dwelling located on one lot and not attached to any other dwelling unit.

(67) "Electric Vehicle Charging Station" means a parking space containing battery-charging station equipment that has as its primary purpose the transfer of electric energy (by conductive or inductive means) to a battery or other energy storage device in

an electric vehicle and that does not meet the definition of a Rapid Charging Station.

(68) "Equipment Rental Facility" means a facility that stores equipment that can be rented for a specified period of time in return for payment.

(69) "Factory Assembled Commercial Structure" means a factory assembled structure (FAS) designed or used for industrial, educational, assembly, professional, or commercial purposes.

(70) "Family" means any number of individuals living together as a single housekeeping unit, and doing their own cooking on the premises exclusively as one household.

(71) "Fence" means a substantial material serving as an enclosure, barrier, or boundary consisting of wood, metal, masonry wall, solid board fence, screen chain link or other substantial material.

(72) "Fire Department Facility" means a building housing all or a portion of a duly organized fire department, fire protection district or fire company regularly charged with the responsibility of providing fire protection to a jurisdiction.

(73) "Floodplain" means the total area subject to inundation by the base flood.

(74) "Floodway" means the channel or waterway or those portions of the floodplain adjoining the channel which are reasonably required to carry and discharge the floodwaters of the watercourse without causing more than a one foot rise in the water surface elevation of a 100-year flood.

(75) "Front Property Line" means the front property line as shown upon the official recorded plat of the property. In all cases where the front property line cannot be determined from a recorded plat, it shall be the property line abutting or adjoining a public road, street, highway, or lane. If there is more than one property line adjoining or abutting a public road, street, highway or lane, the front property line shall be considered to be the property line along the principal or main travelled public way. In the event there is question as to which public way is the principal one, the Planning Administrator shall, upon request from the County Engineer or any interested party, designate the front property line for any specific lot and such designation shall be final for the purposes of this title.

(76) "Front Yard" means the required open space between the front property line and the nearest part of any building on the lot.

(77) "Golf Course" means a parcel or tract of land that is improved for the purposes of playing golf e.g., greens, tees or fairways, shelters, clubhouses, and ancillary maintenance buildings.

(78) "Guyed Tower" means any structure, including but not limited to lattice towers or monopoles, which uses guy wires to connect above-grade portions of a communication tower diagonally with the ground in a radial pattern around the tower.

(79) "Hazardous Waste and/or Material" means all dangerous and extremely hazardous waste as defined in RCW 70.105.010, as it now exists or is hereafter amended, except for moderate-risk waste.

(80) "Hazardous Waste Storage" means the holding of hazardous waste for a temporary period as regulated by State Dangerous Waste Regulations, Chapter 173-303 WAC, as amended.

(81) "Hazardous Waste Treatment" means the physical, chemical, or biological processing of hazardous waste to make wastes nondangerous or less dangerous, safer for transport, amenable for energy or material resource recovery, amenable for

storage, or reduced in volume.

(82) "Hazardous Waste Treatment and Storage Facility, Off site" means treatment and storage facilities that treat and store waste from generators on properties other than those on which the treatment and storage facilities are located.

(83) "Hazardous Waste Treatment and Storage Facility" means treatment and storage facilities that treat and store wastes.

(84) "Hearings Examiner" means an examiner appointed by the Board of County Commissioners, authorized to hear and make decisions on variances, land use permits, and certain appeals.

(85) "Holding pens" means enclosed areas used for short term occupation by livestock and customarily serves as a staging area when moving livestock from place to place or for general livestock maintenance activities.

(86) "Home Occupation" means any business use that is clearly incidental and secondary to the use of the property for residential purposes.

(87) "Hotel" means a facility offering transient lodging accommodations to the general public and may provide additional services, such as restaurants and meeting rooms. Includes motels.

(88) "Household" means a group of people living together and sharing common areas, such as for cooking.

(89) "Housing for People with Functional Disabilities" means housing used, or intended for use, by persons with functional disabilities. The term includes, but is not limited to, Adult Family Homes, Residential Care Facilities, and housing for any Supported Living Arrangement, as therein defined.

(90) "Hunting, Fee Access" means an activity where hunters pay a fee to lease private property from property owners allowing them access onto the property for hunting purposes.

(91) "Hunting Preserve" means a parcel or contiguous parcels encompassing at least three hundred and twenty (320) acres used for hunting.

(92) "Impervious Surface" means any material which prevents absorption of storm water into the ground.

(93) "Industrial Solid Wastes" means waste by-products from manufacturing and processing operations such as scraps, trimmings, packing, and other discarded materials not otherwise designated as dangerous waste under chapter 173-303 WAC, as it now exists or is hereafter amended.

(94) "Infiltration" refers to the penetration of water into soil or other material.

(95) "Kennel, Commercial" means any premises on which more than four (4) dogs, each more than six (6) months old are housed, groomed, bred, boarded, trained, or sold.

(96) "Kennel, Private" means any premises on which one or more dogs are housed, groomed, bred, boarded, trained, or sold but that does not meet the definition of a commercial kennel as defined herein.

(97) "Land" means any lot, parcel or tract of real property (ground, soil, or earth).

(98) "Land Use" means the method or manner in which land and structures are occupied or utilized.

(99) "Landscaping" means the planting, removal, and maintenance of vegetation along with the movement and displacement of earth, topsoil, rock, bark, and similar substances done in conjunction with the planting, removal and maintenance of vegetation. Landscaping products would include trees, shrubs, topsoil, landscaping rock, bark, irrigation supplies, ornamental fixtures, and/or similar materials used in landscaping property.

(100) "Lattice Tower" means a structure that consists of a network of vertical and horizontal supports and crossed metal braces which form a tower that is usually triangular or square in cross-section.

(101) "Law Enforcement Facility" means an office for the administration of any public agency responsible for the public order and safety, i.e., police, sheriff, or state patrol. Law enforcement facilities do not include outdoor storage areas or maintenance shops.

(102) "Lot" means:

(a) a parcel of land on which a principal building and its accessory buildings are placed or are to be placed, together with the required open spaces; or a "lot" designated as such on an officially recorded plat;

(b) any subdivision of land by metes and bounds description prior to the adoption of this title and held under one ownership separate and distinct from the adjoining and abutting land shall be considered a "lot" as shown by the last conveyance of record; and,

(c) when a tract of land consisting of more than one platted lot held under one ownership is to be developed as one unit, all the parcels or lots shall be considered as one lot for the purpose of this title.

(103) "Lot Area" means the total horizontal area within the boundary lines of a lot.

(104) "Lot Coverage" means the percentage of area of a lot which is occupied by a primary building or structure and its accessory buildings or structures, not including uncovered patios, driveways, open steps and buttresses, terraces, and ornamental features projecting from buildings or structures which are not otherwise supported by the ground.

(105) "Lot Depth" means the horizontal length of a straight line drawn from the midpoint of the front lot line to the midpoint of the rear lot line.

(106) "Lot Line, Front:"

(a) in the case of an interior lot - the front lot line shall be the property line separating the lot from the road;

(b) in the case of a corner lot - the front lot line shall be the property line with the narrowest street frontage, except, the Planning Administrator, or his/her designee, shall designate the front lot line for corner lots in residential districts.

(c) in the case of a flag lot, when an access easement or right-of-way extends across the lot, the front lot line shall be the line separating the lot from the right-of-way or access easement. When the right-of-way or access easement does not extend across the property, the front lot line shall be determined by the building official.

(107) "Lumber Yard" means facilities used for the storage and sale of dimensional lumber.

(108) "Manufactured Home" means a manufactured, relocatable living unit which, when erected on site, is designed to be permanently connected to required utilities and used as a dwelling, exceeds forty (40) feet in length and eight (8) feet in width, and bears the insignia of the U. S. Department of Housing and Urban Development.

(109) "Manufactured Home/FAS Park" includes mobile home park. A site, lot or tract of land under the ownership or management of one person, firm or corporation, intended for occupancy by five (5) or more manufactured (mobile) homes/FAS for dwelling or sleeping purposes. This definition shall not include parks for the location of recreational vehicles for travel or recreation.

(110) "Manure" means animal waste.

(111) "Manure Storage Area" refers to an area associated with an animal feedlot where animal manure or runoff containing animal manure is stored until it can be utilized as domestic fertilizer or removed to a permitted animal manure disposal site. Animal manure packs or mounding within the animal feedlot shall not be considered to be manure storage.

(112) "Marijuana" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include:

(a) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination; or

(b) Industrial hemp as defined in RCW 15.120.010.

(113) "Marijuana Concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having THC concentration greater than ten percent.

(114) "Marijuana-Infused Products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection (112) of this section, and have a THC concentration no greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

(115) "Marijuana Processing" means the processing of marijuana, by a person licensed by the Washington State Liquor and Cannabis Board, into marijuana concentrates, useable marijuana, or marijuana-infused products for sale in retail outlets, or marijuana concentrates, useable marijuana, or marijuana-infused products for sale at wholesale to marijuana retailers.

(116) "Marijuana Production" means the production and sale of marijuana at wholesale to marijuana processors and other marijuana producers by a person licensed by the Washington State Liquor and Cannabis Board.

(117) "Marijuana Products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

(118) "Marijuana Retail Sales" means the sale of marijuana concentrates, useable marijuana, or marijuana-infused products in a retail outlet by a person licensed by the Washington State Liquor and Cannabis Board.

(119) "Master Planned Resorts/Summer Resorts" means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities. A master planned resort may include other residential uses within its boundaries, but only if the residential uses are integrated into and support the on-site recreational nature of the resort.

(120) "Medical Facility" means an office from which emergency or routine health care services are provided and that does not involve overnight inpatient care.

(121) "Medical Use of Marijuana" means the manufacture, production, possession, transportation, delivery, ingestion, application, or administration of marijuana for the exclusive benefit of a qualifying patient or designated provider in the treatment of his or her terminal or debilitating medical condition.

(122) "Monopole Tower" means a structure that consists of a single pole to support antennas and connecting appurtenances.

(123) "Multi-family Dwelling" means a building arranged or designed to be occupied by more than two families, such as an apartment house, flat or rowhouse.

(124) "New Manufactured Home" means any manufactured home required to be titled under Title 46 RCW, as it now exists or is hereafter amended, which has not been previously titled to a retail purchaser, and is not a "used mobile home" as defined in RCW 82.45.032(2), as it now exists or is hereafter amended.

(125) "Non-agricultural Accessory Use" means the production or sale of goods, or the sale of services that are not normally and routinely a part of the chain of production and harvesting of an agricultural or horticultural crop, or livestock.

(126) "Nonconforming" means a lot, use, building or structure which was lawful prior to the adoption, revision or amendment of this title, but which fails, by reason of such adoption, revision or amendment, to conform to the current requirements of the zoning district.

(127) "Nursery" means an establishment where trees, shrubs and other plant materials are grown on site for the purpose of sale.

(128) "Open record hearing" means a hearing, conducted by a single hearing body or officer authorized by the Benton County Board of Commissioners, wherein a record will be created through the receipt of testimony and other appropriate evidence and information under procedures prescribed by the Benton County Code or by such body's or officer's rules of procedure.

(129) "Outdoor Storage" means all materials, equipment, merchandise or objects kept or placed on the lot or not within an enclosed structure, for preservation or later use or disposal; it is not intended, however, to include the following exceptions:

(a) Those objects customarily stored outside an enclosed structure due to their size and due to their being of such character as to not readily deteriorate when exposed to the elements, such as automobiles, mobile homes, boats and other vehicles, farm machinery, irrigation and heavy construction equipment, and those objects which are themselves enclosures; provided, however, such objects are being kept primarily for immediate sale to others or for rental to others.

(b) Neat and orderly outdoor displays of items or objects for immediate sale when such displays are incidental or accessory to an established commercial principal activity conducted from an enclosed structure.

(130) "Parcel" means land having fixed boundaries created in accordance with Benton County Code and/or state law. The term includes lots or tracts.

(131) "Park" means a public or privately owned area with facilities for active or passive recreation by the public, including but not limited to: sports fields, skating facilities, water access facilities, trails for non-motorized uses, caretaker residences, and supporting infrastructure.

(132) "Pasture" refers to areas where grass or other growing plants are used for grazing and where the concentration of animals is such that a vegetative cover is maintained during the growing season except in the immediate vicinity of temporary supplemental feeding or watering devices.

(133) "People with Functional Disabilities" means a person who, because of a recognized chronic physical or mental condition or disease, is functionally disabled to the extent of:

(a) needing care, supervision or monitoring to perform activities of daily living or instrumental activities of daily living, or;

(b) needing support to ameliorate or compensate for the effects of the functional disability so as to lead as independent a life as possible, or;

(c) having a physical or mental impairment which substantially limits one or more of such person's major life activities, or;

(d) having a record of such an impairment, or;

(e) being regarded as having such an impairment, but such

term does not include current illegal use of or active addiction to a controlled substance.

(134) "Permanent Conservation Easement" means a permanent, nonpossessory interest of a holder in real property imposing limitations or affirmative obligations the purposes of which include retaining or protecting natural, scenic, or open-space values of real property, assuring its availability for agricultural, forest, recreational, or open-space use, protecting natural resources, maintaining or enhancing air or water quality, or preserving the historical, architectural, archaeological, or cultural aspects of real property.

(135) "Permit" means written government approval issued by an authorized official empowering the holder thereof to take some action permitted.

(136) "Person" refers to any natural person, any state, municipality, or other governmental or other political subdivision or other public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent, or other legal representative of any of the foregoing, and any other entity.

(137) "Planned Development" means any residential development approved and filed with the county auditor and developed in accordance with the provisions of this title.

(138) "Planning Administrator" means the Benton County Planning Director or Manager or his/her designee.

(139) "Planning Administrator Review" means the administrative review process in which the County Planning Director/Manager or his/her designee makes the administrative decision regarding a proposed use after all notifications to state and local agencies to assure consistency with applicable county, state and local requirements have been met.

(140) "Planning Commission" means the duly constituted and appointed Planning Commission of Benton County.

(141) "Planning Department" means the Benton County Planning Department.

(142) "Premises" means a lot, parcel, or plot of land together with the buildings and structures thereon.

(143) "Professional Office" means an office used as a place of business by the following licensed professionals or persons in the following generally recognized professions using training or knowledge of technical, scientific or other academic discipline as opposed to manual skills and that do not involve outside storage or fabrication or on-site sale or transfer of commodities:

- (a) Financial Services, Insurance and Real Estate Agents;
- (b) Accounting, Auditing, and Bookkeeping Services;
- (c) Legal Services;
- (d) Management and Public Relations Services; and
- (e) Engineering, Architectural, Planning and Surveying Services.

(144) "Public Garage" means any building or premises used for the storage or housing of more than three self-propelled vehicles (except farm implements used on the premises) or where such vehicles are repaired or kept for hire.

(145) "Public Transit Center" means a facility where public transportation passengers interchange from one route or vehicle to another.

(146) "Qualifying Patient" has the definition of that term as set forth under chapter 69.51A, RCW.

(147) "Rapid Charging Station" means a facility offering electrical outlets to be used by consumers for a fee to expeditiously recharge electric vehicle batteries through high power levels that meet or exceed applicable standards under state law.

(148) "Rear Property Line" means the property line of a lot most nearly parallel to the front property line of the same lot as defined in this title except that for a triangular shaped lot the rear property line shall be represented by the point of intersection of the two property lines which are not the front property line as defined in this title.

(149) "Rear Yard" means the required open space on a lot extending along the rear property line through the whole width of the lot.

(150) "Reception Facility" means a private building with restroom facilities and/or kitchen, and associated grounds used for social, educational, or cultural activities.

(151) "Recreational Vehicle" means a motorized or non-motorized vehicle designed and manufactured for recreational use, including but not limited to boats, travel trailers, snowmobiles, go carts, motorcycles (including three and four wheelers), and dune buggies.

(152) "Recreational Vehicle (R.V.) Park" means any site, lot or parcel of ground occupied or intended for occupancy by two (2) or more recreational vehicles for travel, recreational or vacation uses, whether or not a fee is charged. Storage of two (2) or more unoccupied recreational vehicles does not constitute an R.V. park.

(153) "Recycling Center" means a facility used to recycle, reprocess, and/or treat the following materials to then return to a condition in which they may be used again: newspapers, magazines, books, and other paper products, glass, metal cans.

(154) "Red Mountain American Viticultural Area (AVA) " means the approximately 4,600-acre, federally designated grape-growing and wine-producing region on the south-facing slope of Red Mountain located in unincorporated Benton County.

(155) "Rental Storage Facility" means a structure or structures containing separate, individual, and private storage spaces of varying sizes leased or rented individually for varying periods of time.

(156) "Resource Lands" refer to agricultural and mineral lands.

(157) "Retail Sales Establishment" means a facility used for the sale of goods directly to customers including, but not limited to: mini marts, farm supply and hardware stores, florists, and agricultural markets.

(158) "Riding Academy" means any establishment where horses are kept for riding, driving, or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment.

(159) "Sand" refers to large particles of soil from 0.5 to 2 millimeter in diameter. Sand soil contains at least 85 per cent sand with the percentage of silt plus 1.5 times the percentage of clay not exceeding 15 per cent.

(160) "Satellite Earth Station" means the facilities used for reception and processing of programming services from a satellite prior to transfer to terrestrial distribution systems or for processing of programming services from a terrestrial source before transmission via satellite.

(161) "School" means a public or private educational learning institution from which instruction is given to children no younger than three (3) years old, and includes high schools, colleges, and agricultural or technical schools or facilities.

(162) "Setback, Front" is the minimum horizontal distance measured perpendicularly from the centerline of the adjacent right-of-way to the nearest wall of the structure. Where there is a partial right-of-way, the setback shall be measured perpendicularly from the design centerline.

(163) "Setback, Side and Rear" is the minimum horizontal distance measured perpendicularly from the nearest property line to the nearest wall of the structure. Except that a side setback on a corner lot, along the adjacent right-of-way shall be measured perpendicularly from the center line of right-of-way. When there

is a partial right-of-way, the setback shall be measured perpendicularly from the design centerline.

(164) "Shooting Range Facility" means a range, building or location used for practice with firearms and/or archery equipment. The facility may include limited retail sales and services to support shooting and archery activities and operated only during the time the shooting range facility is open. All sales and service must comply with federal, state and local regulations.

(165) "Side Yard" means the required open space on a lot between the side wall line of a building and the side line of the lot, and extending from the front yard to the rear yard.

(166) "Site built home" means a dwelling primarily constructed on the site to be occupied by the structure and which is permanently affixed to the ground by footings and foundation.

(167) "Slaughterhouse" means a commercial establishment where animals are butchered.

(168) "Solar Power Generator Facility, Major" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries. Major facilities are developed as the primary land use for a parcel on which it is located and does not meet the siting criteria for a minor facility in BCC 11.03.010(168).

(169) "Solar Power Generator Facility, Minor" means the use of solar panels to convert sunlight directly or indirectly into electricity. Solar power generators consist of solar panels, charge controllers, inverters, working fluid system, and storage batteries. Minor facilities are sited on the power beneficiary premises, are intended primarily to offset part or all of the beneficiary's requirements for electricity/gas, and are secondary or accessory to the beneficiary's use of the premises.

(170) "Solid Waste" means all putrescible and non-putrescible solid and semisolid wastes, including but not limited to garbage,

rubbish, ashes, industrial wastes, swill, demolition and construction wastes, abandoned vehicles, or parts thereof, and discarded commodities. This includes all liquid, solid and semisolid materials which are not the primary products of public, private, industrial, commercial, mining, and agricultural operations. Solid waste includes but is not limited to wood waste, dangerous waste, and problem wastes. Agricultural wastes are exempt from this definition provided the wastes are limited to manures and crop residues returned to the soil at agronomic (fertilizer) rates.

(171) "Solid Waste Handling Facility" means a parcel of land or structure, or part thereof, larger than two hundred (200) square feet used for the storage, collection, or abandonment of solid waste; provided, establishments for the sale, purchase, storage and dismantling of vehicles and machinery are not considered solid waste handling facilities.

(172) "Solid Waste Transfer Station" means a parcel of land or structure, or part thereof, used as a facility that receives and consolidates solid waste and at which solid waste may be loaded onto tractor trailers, railcars, or barges for long-haul transport to a distant disposal facility.

(173) "Stable, Commercial" means a building in which horses are kept for remuneration, hire, or sale.

(174) "Stable, Private" means a building in which horses are kept for private use.

(175) "Stockyards" see "Animal Feedlots."

(176) "Structure" means that which is built or constructed.

(177) "Subsurface Water" refers to any water below the surface of the ground, including but not limited to water in the saturated and unsaturated zones.

(178) "Supported Living Arrangement" means a living unit owned or rented by one or more persons with functional disabilities who

receive assistance with activities of daily living, and/or medical care from an individual or agency licensed and/or reimbursed by a public agency to provide such assistance.

(179) "Urban Growth Area" means an area designated by Benton County in its Comprehensive Plan where urban growth and municipal services are allowed and encouraged and where annexation by cities can occur.

(180) "Use" means the activity or purpose for which land or structures or combination of land and structures are designed, arranged, occupied, or maintained together with any associated site improvement. This definition includes the construction, erection, placement, movement or demolition of any structure or site improvement and any physical alteration to land itself including any grading, leveling, paving or excavation. Use also means any existing or proposed configuration of land, structures, and site improvements, and the use thereof.

(181) "Use District" means a portion of Benton County within which certain uses of land and structures are permitted and certain other uses of land and structures are prohibited, certain yards and other open space are required and specific lot areas are established, all as set forth and specified in this title. This definition also includes the term "zone" and "zoning district."

(182) "Utilities" means those business, institutions, or organizations which use pipes or conductors in, under, or along streets, alleys or easements to provide a product or service to the public.

(183) "Utility Substation Facility" means above or below ground structures that are necessary to provide or facilitate distribution, transmission, or metering of water, gas, sewage, and/or electric energy. Such facilities may consist of, but are not limited to, the following:

- (a) Water, gas, and electrical distribution or metering lines and sites;

- (b) Water or sewage pumping stations;
- (c) Water towers and reservoirs;
- (d) Public water wells and any accessory treatment facilities; and/or
- (e) Telephone switching facilities.

(184) "Variance" means a modification of specific regulations in accordance with the terms of this title for the purpose of assuring that no property, because of special circumstances applicable to it, shall be deprived of privileges commonly enjoyed by other properties in the same vicinity and zone district classification. Except as set forth or referenced herein, variances do not apply to use, minimum lot size, or required density standards.

(185) "Vegetation" means all native and non-native plant species and tree growth. Vegetation includes but is not limited to lawns, grasses, natural vegetation, bushes, trees, shrubs, vines, perennial plants and flowers, and other similar plantings.

(186) "Vegetative Cover" means that portion of a parcel that is covered by vegetation and includes the canopy area of trees, vines, shrubs, bushes, plants, and other similar plantings. Vegetative cover can be measured in the field by assessing the percentage of the ground that is covered by vegetation.

(187) "Vehicle, Inoperable" means any motor vehicle, recreational vehicle, boat, trailer or semitrailer which lacks a current registration or component part which renders the vehicle unfit for legal use upon the public right-of-way.

(188) "Veterinary Facility" means a business establishment or facility which renders surgical and medical treatment to animals and which includes inside or outside accommodations for animals.

(189) "Warehouse" means a structure used for the storage of goods and materials. Also see "Agricultural Building."

(190) "Wastes" see "Agricultural Wastes," "Industrial Solid Wastes," or "Solid Wastes."

(191) "Wildlife Preserve" means an area of importance for wildlife, flora and fauna or features of geological or other special interest which are reserved and managed for conservation and provide opportunities for study and research.

(192) "Wind Turbine" means a machine with turbine apparatus (rotor blades, nacelle and tower) capable of producing electricity by converting the kinetic energy of wind into rotational, mechanical and electrical energy; provided, the term does not include electrical distribution or transmission lines, or electrical substations.

(193) "Wind Turbine Farms" means two or more wind turbines on one parcel.

(194) "Wind Turbine Height" means the distance measured from the ground level to the highest point on a wind turbine, including the rotor blades.

(195) "Yard Sale" means the occasional sale of used household goods and personal items on the seller's premises. "Yard sale" includes but is not limited to garage sales, moving sales, patio sales, estate sales and rummage sales.

(196) "Wineries/Breweries/Distilleries" means facilities where fruit or other products are processed into wine or spirits and related storage, bottling, shipping, sampling, tasting and sale of such.

(197) "Wrecking Yard" means a lot, parcel of land or structure, or part thereof, larger than 200 square feet, used for the collecting, dismantling, storage, salvaging, or sale of machinery

or vehicles not in operable condition or parts thereof; provided that this definition shall not be deemed to include lots used for the outdoor display and sale of used vehicles in operable condition; nor shall it include that part of a farm used for the storage of agricultural machinery kept for salvage by the owner for his own use, and not for sale, on farms having an area of not less than forty (40) acres.

(198) "Zoning District" means a portion of Benton County within which certain uses of land and structures are allowed or conditionally permitted, certain other uses of land and structures are prohibited, and certain development standards may be specified, and includes the terms "zone" and "use district". [Ord. 611 (2018) § 7; Ord. 617 (2019) § 1; Ord. 636 (2021) § 1; Ord. 658 (2024) § 1]

**11.03.020 SEVERABILITY.** If any provision of this chapter is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the chapter and the applicability thereof to other persons and circumstances shall not be affected thereby. [Ord. 611 (2018) § 249]

**11.03.030 EFFECTIVE DATE.** This chapter shall take effect and be in full force upon its passage and adoption. [Ord. 611 (2018) § 250]